Remarks

Status of Claims

Claims 1-15 are pending in the application. Claims 1, 4, 5, and 6 are in independent form. The final Office action rejected claims 1-15 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,884,270 ("Walker").

Drawings

Three drawing sheets are submitted herewith. Figure 2 has been amended for clarity (see the annotated sheet). In addition, Figure 3 has been added for clarity. No new matter has been introduced.

Support for the amendments to Figure 2 can at least be found in Figure 2 (as originally filed) and paragraphs **[0035]**, **[0036]**, **[0037]**, **[0038]**, and **[0039]** of the present application.

Support for Figure 3 can at least be found in Figure 2 as originally filed (note the box in the lower right side of originally filed Figure 2 starting with "Authentex and Validator agree on queries to be asked of Validator's system"), paragraphs **[0035]**, **[0036]**, **[0037]**, **[0038]**, and **[0039]** of the present application, and originally filed claims 1, 4, and 5.

Specification

Paragraphs **[0035]**, **[0036]**, and **[0037]** have been amended. Paragraphs **[0020a]**, **[0039a]**, and **[0039b]** are new. No new matter has been introduced.

Support for the amendments to paragraphs **[0035]** and **[0036]** can at least be found in originally filed paragraph **[0035]**, box 3 of originally filed Figure 2, the box in the bottom center of originally filed Figure 2 starting with "Real-time Interactions," and Figure 2 of U.S. Provisional Patent App. No. 60/244,422, filed October 30, 2000 (which was incorporated by reference in its entirety into the present application).

Support for the amendments to paragraph **[0037]** can at least be found in box 2 of originally filed Figure 2 and the box in the lower right side of originally filed Figure 2 starting with "Authentex and Validator agree on queries to be asked of Validator's system."

Support for new paragraphs **[0020a]**, **[0039a]**, and **[0039b]** can at least be found in Figure 2 as originally filed (note the box in the lower right side of originally filed Figure 2 starting with "Authentex and Validator agree on queries to be asked of Validator's

system"), paragraphs **[0027]**, **[0035]**, **[0036]**, **[0037]**, **[0038]**, and **[0039]** of the present application, and originally filed claims 1, 4, and 5.

Prior Art Rejection

Brief Summary of Walker

Walker discloses a "system for facilitating employment searches using anonymous communications [that] includes a plurality of party terminals [300], a plurality of requestor terminals [400], and a central controller [200]." Walker, Abstract. A job seeker (the party) can enter data (*e.g.*, their resume) via a party terminal 300. Walker, col. 7, lines 33-35. The job seeker's data is stored in party data base 255. Walker, col. 8, lines 25-28. Likewise, an employer (the requestor) can enter data (*e.g.*, fiscal info., building locations, number of employees) via a requestor terminal 400. Walker, col. 7, lines 43-46. The employer's data is stored in requestor data database 260. Walker, col. 8, lines 25-28. Thus, as shown in Figure 2, Walker discloses a central database of information supplied by job seekers and employers. Walker, col. 4, lines 17-20. The data is stored locally and is fully accessible to the central controller. Further, the data is not generated during the ordinary course of business. Instead, the data is voluntarily entered by the job seekers and employers leaving open the possibility of fudging the data.

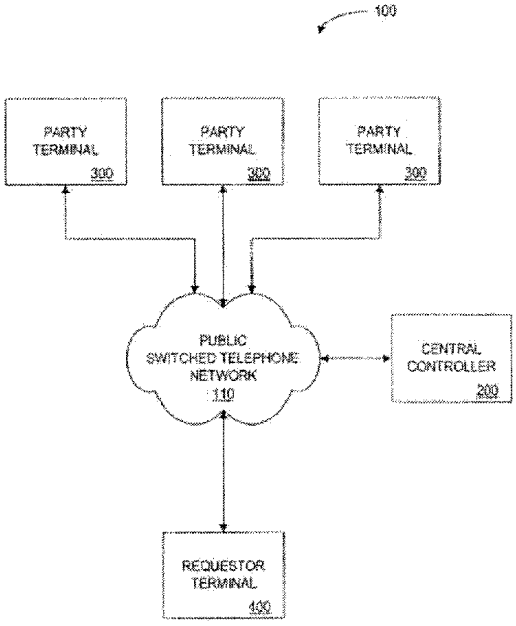

Figure 1 of Walker

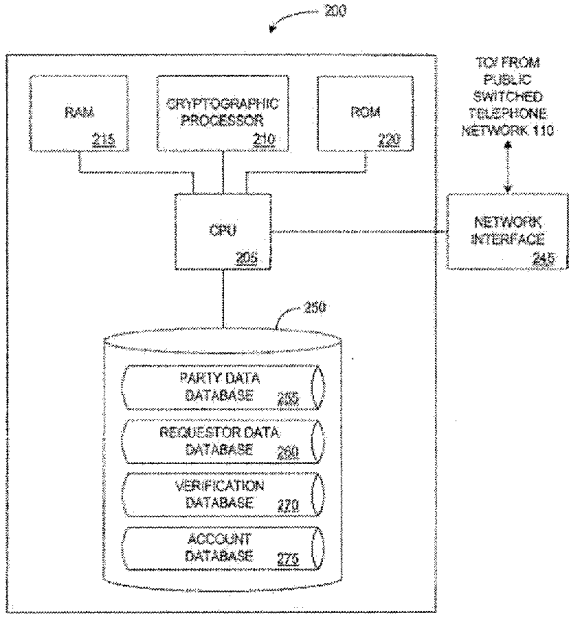

Figure 2 of Walker

The employer can search the party database 255 to identify job seekers matching the search criteria. Walker, col. 8, lines 51-53. For example, an employer could search for candidates having two years of patent writing experience living in New England. Walker, col. 8, lines 57-58. To preserver the anonymity of the job seekers, the central controller 200 first asks the job seeker whether the job seeker's information can be released before sending the information to the employer. Walker, col. 16, lines 33-37. For example, after performing a search, the employer may request to see the party data for each hit. If one of the hits is a currently employee, that employee may not want their current employer to know they are searching for a new job and may not authorize the release of information. Walker, col. 16, lines 62-67.

The central controller 200 can also establish an anonymous communications channel between the employer and the candidates. Walker, col. 18, lines 29-31. The communication channel allows the party and the requestor to reveal or request information to and from each other while ensuring anonymity. Walker, col. 18, lines 31-34.

Thus, a goal of Walker's invention is to "provide a communication system incorporating a central database of information supplied by one or more parties and managed by a central administrator where all parties to the system can manage and control the release of any or all information about themselves or their identities, and where such a system allows for electronic-based communications between the parties without the necessity of revealing the identity of either party." Walker, col. 4, lines 17-25.

Section 102 Rejections

The final Office action rejected claim 1-15 under 35 U.S.C. § 102(b) as allegedly being anticipated by Walker. Applicant respectfully traverses.

Claim 6

Claim 6 has been amended to refer to (with emphasis added):

> **6.** A method of authenticating the putative identity of a subject who is an individual, the method comprising the steps of:
>
> negotiating a predetermined set of permitted types of queries with an owner of an independent, remote, third-party database, the independent, remote, third-party database including identifying information associated with the subject;
>
> providing a database interface for interacting with the independent, remote, third-party database without storing any significant portion of the

third-party database locally, and wherein the interaction is limited to submitting a query among the predetermined set of permitted types of queries, and receiving from the third-party database a response to the permitted query;

receiving identifying information associated with the subject to authenticate his identity, the received identifying information including at least one item of information sufficient to form one of the permitted types of queries;

forming a permitted type of query based on the received identifying information;

transmitting the formed query to the remote, third-party database; and

receiving a response from the remote, third-party database wherein the database interface does not otherwise provide access to the remote, third-party database, so that privacy of the remote, third-party database content remains under control of its owner.

Without any explanation of how or why the portions of Walker anticipate the various elements of claim 6, the Office action simply rejects claim 6 in its entirety citing Fig. 2A, col. 7, line 33 – col. 9, line 25, col. 15, line 25 – [sic], and col. 16, lines 20 – 42. This rejection should be withdrawn for several reasons.

WALKER DOES NOT TEACH
AN INDEPENDENT, REMOTE, THIRD-PARTY DATABASE

Claim 6 refers to "an independent, remote, third-party database" (quoting claim 6). By way of example, and not by limitation, identifying information comes from multiple third-party databases that have gathered that information in the ordinary course of their business or other relationships and dealings with the subject (*e.g.,* a bank, a credit bureau, a credit card company, a utility company, etc.). Present Application, ¶¶ **[0026]** and **[0037]**. For example, the subject and the independent, remote, third-party database establish a face-to-face interaction when the subject opens a bank account. Present Application, Figure 2 (original). Out-of-wallet data is generated about the subject at each subsequent transaction. *Id.* Thus the data stored within the independent, remote, third-party database is assembled and controlled by its owner – not by the subject.

In contrast, Walker's databases are not "independent, remote, third-party databases" (quoting claim 6). As shown in Figure 2, Walker discloses a central database of information supplied by job seekers and employers. Walker, col. 4, lines 17-20. The data in Walker is stored locally, not remotely. Further, the data in Walker is not generated during the ordinary course of business. Instead, the data is voluntarily entered by the job seekers when they use Walker's system to find a job.

WALKER STORES ALL INFORMATION LOCALLY

Claim 6 refers to "providing a database interface for interacting with the independent, remote, third-party database without storing any significant portion of the third-party database locally" (quoting claim 6 with emphasis added). As shown in Walker's Figure 2, all information is stored locally.

WALKER DOES NOT TEACH
NEGOTIATING A PREDETERMINED SET OF
PERMITTED TYPES OF QUERIES WITH AN OWNER OF
THE INDEPENDENT, REMOTE THIRD-PARTY DATABASE

Claim 6 refers to "negotiating a predetermined set of permitted types of queries with an owner of an independent, remote, third-party database, the independent, remote, third-party database including identifying information associated with the subject" (quoting claim 6). By way of example, and not by limitation, the "query has been licensed for a specific use." Present Application, ¶ **[0026]**. The actual question and scope of the query depend on the authentication services being provided. *Id.* The ability to control the types of queries being made against the database provides many database provides the incentive, or at least comfort level, to make their database available. Present Application, ¶ **[0029]**. The independent database operator can authorize a query to access whatever level of information they are comfortable with. *Id.*

Applicant does not see where Walker teaches "negotiating a predetermined set of permitted types of queries with an owner of an independent, remote, third-party database, the independent, remote, third-party database including identifying information associated with the subject" (quoting claim 6). In Walker, the employer can search by any criteria. The criteria may include employment qualifications or education background that the employer is interested in. Walker, col. 16, lines 1-6. In fact, depending on the number of candidates found, the employer may refine or modify the search criteria. Walker, col. 16, lines 15-16. Thus, Walker does not teach "negotiating a predetermined set of permitted types of queries with an owner of an independent, remote, third-party database, the independent, remote, third-party database including identifying information associated with the subject" (quoting claim 6).

WALKER'S DATABASE OWNER DOES NOT CONTROL THE PRIVACY OF THE DATABASE

Claim 6 refers to "receiving a response from the remote, third-party database wherein the database interface does not otherwise provide access to the remote, third-party database, so that privacy of the remote, third-party database content remains under control of its owner." (quoting claim 6). By way of example, but not by limitation, the verification engine allows legitimate access to personal data concerning a subject being authenticated, but it keeps others from browsing. Authentication clients are only licensed for specific queries. Queries designed to browse database records or "read-out" information are not enabled by the verification engine. Present Application, ¶ **[0017]**. The more sensitive out-of-wallet data, such as creditworthiness and credit card information, remains in the hands of companies that naturally hold that information. Although the verification engine will know the results of the queries, the information itself is never directly accessible by the verification engine or the authentication client. The verification engine simply provides a gateway to the information, thus offering a workable compromise between authentication and privacy. Present Application, ¶ **[0033]**.

In Walker, the central controller 200 has full access to the data in the databases. In fact, Walker describes using keyword and natural language searches. Walker, col. 8, lines 54-56. In addition, in Walker the central controller 200 does not control the privacy of the data – instead the party or requestor determine the available data. The final Office action at page 3 acknowledges this by stating that Walker's system "allows [the] user to exercise control over information release to others." Thus Walker does not disclose "receiving a response from the remote, third-party database wherein the database interface does not otherwise provide access to the remote, third-party database, so that privacy of the remote, third-party database content remains under control of its owner." (quoting claim 6).

For at least the above reasons, the Office action does not provide evidence that Walker anticipates claim 6. Accordingly, claim 6 and its respective dependent claims are patentable over Walker.

Claims 1, 4, and 5

Claim 1 has been amended to refer to (with emphasis added):

> **1.** A user authentication system comprising:
> an authentication client for requesting authentication of a subject;
> a client interface to receive the authentication request from the authentication client;
> multiple independently operated databases, each database storing information associated with the subject, the associated information being accessible only through predefined queries to identify the subject, the predefined queries defined in advance by agreement with owners of each of the multiple independently operated databases; and
> a verification engine for facilitating authentication of the subject by receiving the authentication request, selecting one or more of the predefined queries, presenting the one or more selected queries to the subject via the authenticating client, receiving from the subject an answer to each of the one or more selected queries, and presenting the answer to each of the multiple independently operated databases for a validation response.

WALKER DOES NOT TEACH
MULTIPLE INDEPENDENTLY OPERATED DATABASES,
EACH DATABASE STORING INFORMATION ASSOCIATED WITH THE SUBJECT

Claim 1 refers to "multiple independently operated databases, each database storing information associated with the subject" (emphasis added). By way of example, and not by limitation, information associated with the subject comes from multiple independently operated databases that have gathered that information in the ordinary course of their business or other relationships and dealings with the subject (*e.g.*, a bank, a credit bureau, a credit card company, a utility company, etc.). Present Application, ¶¶ **[0026]** and **[0037]**. For example, the subject and the multiple independently operated databases can establish a face-to-face interaction when the subject opens a bank account. Present Application, Figure 2 (original). Out-of-wallet data is generated about the subject at each subsequent transaction. *Id.*

In contrast, Walker does not disclose "multiple independently operated databases" (quoting claim 1). As shown in Walker's Figure 2, Walker teaches a central database of information supplied by job seekers and employers. Walker, col. 4, lines 17-20.

In addition, claim 1 refers to "multiple independently operated databases, each database storing information associated with the subject" (emphasis added). By way of example, and not by limitation, because the information is stored in multiple unrelated databases, it becomes extremely difficult for an identity thief or other criminal to place false data in all of the independent databases. Present Application, ¶ **[0034]**.

Applicant does not see where Walker teaches "multiple independently operated databases, each database storing information associated with the subject" (quoting claim 1). While Walker describes a party data database 255, requestor data database 260, verification database 270, and account database 275, these databases do not each store information associated with the subject. Instead the databases contain different data. For example, the party data database 255 includes the job applicant's data, such as employment history and education history, while the requestor data database 260 includes the company's data, such as the company history and financial profile. See Figure 2B of Walker. Thus, Walker does not teach "multiple independently operated databases, each database storing information associated with the subject" (quoting claim 1).

WALKER DOES NOT TEACH
PREDEFINED QUERIES DEFINED IN ADVANCE
BY AGREEMENT WITH OWNERS OF EACH OF THE MULTIPLE
INDEPENDENTLY OPERATED DATABASES

Claim 1 refers to "the predefined queries defined in advance by agreement with owners of each of the multiple independently operated databases" (quoting claim 1). By way of example, and not by limitation, the queries can be licensed for a specific use. Present Application, ¶ **[0026]**. The actual question and scope of the queries depend on the authentication services being provided. *Id.* The ability to control the types of queries being made against the database provides many database provides the incentive, or at least comfort level, to make their database available. Present Application, ¶ **[0029]**. The independent database operator can authorize queries to access whatever level of information they are comfortable with. *Id.*

Applicant does not see where Walker teaches "the predefined queries defined in advance by agreement with owners of each of the multiple independently operated databases" (quoting claim 1). In Walker, the employer can search by any criteria. The criteria may include employment qualifications or education background that the employer is interested in. Walker, col. 16, lines 1-6. In fact, depending on the number of candidates found, the employer may refine or modify the search criteria. Walker, col. 16, lines 15-16. Thus, Walker does not teach "the predefined queries defined in advance by agreement with owners of each of the multiple independently operated databases" (quoting claim 1).

WALKER DOES NOT TEACH
A VERIFICATION ENGINE FOR FACILITATING AUTHENTICATION OF THE SUBJECT BY PRESENTING THE ONE OR MORE SELECTED QUERIES TO THE SUBJECT VIA THE AUTHENTICATION CLIENT

Claim 1 refers to "a verification engine for facilitating authentication of the subject by receiving the authentication request, selecting one or more of the predefined queries, presenting the one or more selected queries to the subject via the authenticating client, receiving from the subject an answer to each of the one or more selected queries, and presenting the answer to each of the multiple independently operated databases for a validation response" (quoting claim 1 with emphasis added).

Applicant does not see where Walker teaches "a verification engine for facilitating authentication of the subject by . . . presenting the one or more selected queries to the subject via the authenticating client" (quoting claim 1 with emphasis added). First, the final Office action is unclear as to where Walker anticipates the authentication client of claim 1. The final Office action points to col. 7, lines 33-52 of Walker which discuses the party terminal 300, the central controller 200, and the requestor terminal 400. In addition, the final Office action points to col. 15, lines 26-50 which also discusses the party terminal 300, the central controller 200, and the requestor terminal 400. Applicant's best guess is that the Office alleges that the central controller 200 anticipates the "authentication client" of claim 1 and alleges that the party terminal 300 anticipates the "subject" of claim 1. If this is so, Applicant does not see where Walker teaches "a verification engine for facilitating authentication of the subject by . . . presenting the one or more selected queries to the subject via the authenticating client" (quoting claim 1 with emphasis added). Having failed to identify each and every element of claim 1, the final Office action has not established a prima facie case of anticipation. *Celeritas Techs. Inc. v. Rockwell Int'l Corp.*, 150 F.3d 1354, 1360 (Fed. Cir. 1998) (a rejection based on prior art must account for *each and every* claim limitation).

For at least the above reasons, the final Office action does not provide evidence that Walker anticipates claim 1. Accordingly, claim 1 and its respective dependent claims are patentable over Walker.

Claim 4 and its respective dependent claims are patentable over Walker for similar reasons. In addition, claim 4 refers to "a verification engine to receive from the authentication subject, via the authentication client, an answer to each of the predefined queries, to obtain from each of the plurality of independent database systems a corresponding authentication confidence for each answer, and to combine the

corresponding authentication confidence for each answer into a combined authentication confidence." (quoting claim 4 with emphasis added). Applicant does not see where Walker teaches "a verification engine . . . to combine the corresponding authentication confidence for each answer into a combined authentication confidence." In fact, "authentication confidence" does not even appear in Walker. For at least these reasons, the final Office action does not provide evidence that Walker anticipates claim 4.

Likewise, claim 5 and its respective dependent claims are patentable over Walker for similar reasons.

Claims 2, 19, and 21

Claim 2 refers to "the system of claim 1 wherein the associated information in the multiple independently operated databases includes out-of-wallet data identifying the subject." (quoting claim 2 with emphasis added). By way of example, and not by limitation, "out-of-wallet data is information about you that would take you a little effort to find out, but that you probably have in your filing system or somewhere equally accessible with some effort. It includes information such as the amount of the last transaction with your checkbook or credit card, the holder and amount of your mortgage, your credit rating, your bank balance, and the like." Present Application, ¶ **[0006]**.

The final Office action alleges that col. 8, line 51 to col. 9, line 5 of Walker anticipates claim 2. However, Applicant does not see where Walker discusses out-of-wallet data at this point (or elsewhere). In fact, "out-of-wallet data" or "wallet" do not even appear in Walker. For at least these reasons, the final Office action does not provide evidence that Walker anticipates claim 2. Accordingly, claim 2 is patentable over Walker.

For similar reasons claims 19 and 21 are patentable over Walker.

Claims 16 and 18

Claim 16 refers to "the system of claim 1 wherein the authentication client includes an electronic commerce site" (quoting claim 16). Applicant does not see where Walker discusses an electronic commerce site. In fact, "electronic commerce site" or "electronic commerce" do not even appear in Walker. For at least these reasons, the final Office action does not provide evidence that Walker anticipates claim 16. Accordingly, claim 16 is patentable over Walker.

For similar reasons claim 18 is patentable over Walker.

Conclusion

In view of the foregoing, the Applicant submits that all claims are in condition for allowance. Therefore issuance of the Notice of Allowance is respectfully requested. The Examiner is welcome to call the undersigned to discuss any aspect of this application.

Respectfully submitted,

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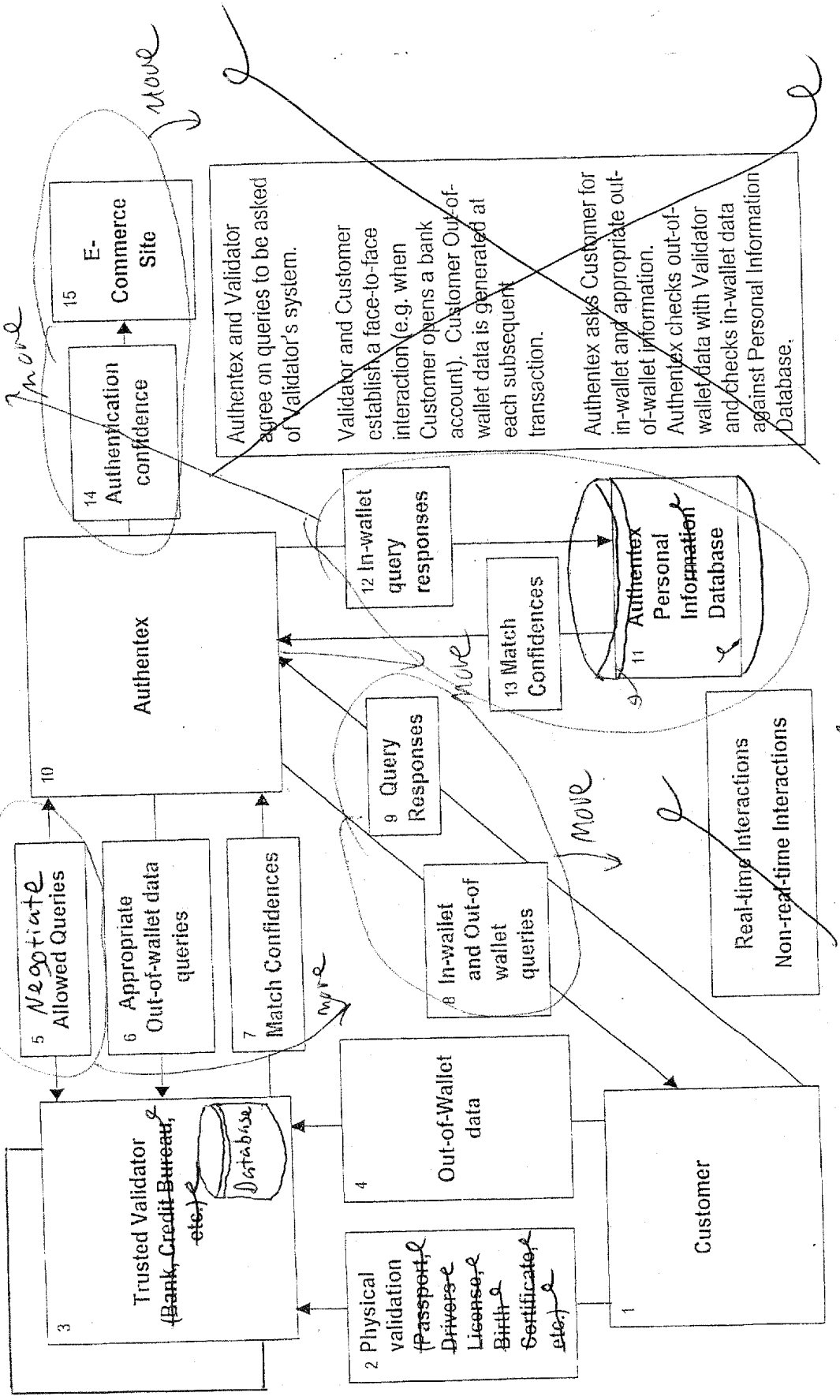

Figure 2
FIG.